

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSEPH A. ROSARIO,

Plaintiff,

v.

SCORE CORRECTION FACILITY,

Defendant.

Case No. C16-954-TSZ-MAT

REPORT AND RECOMMENDATION

On June 20, 2016, plaintiff submitted to this Court for filing a civil rights complaint under 42 U.S.C. § 1983 together with an application to proceed with this action *in forma pauperis*. (See Dkt. 1.) Plaintiff alleged in his complaint that he was unlawfully detained at the SCORE Jail for 27 days after the court ordered his release. (See Dkt. 1-1 at 3.) Plaintiff identified the SCORE Correction Facility as the lone defendant in this action, and he requested damages in the amount of \$37,500.

On July 8, 2016, the Court issued an Order granting plaintiff's application to proceed *in forma pauperis*. (Dkt. 4.) On the same date, the Court issued an Order declining to serve plaintiff's complaint and granting him leave to amend. (Dkt. 5.) The Court advised plaintiff therein that he had not adequately alleged a cause of action under § 1983 against defendant

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1 SCORE Correction Facility because he failed to identify the SCORE “policy” or “custom” which  
2 caused the harm alleged in the complaint, and he failed to allege any violation of a federally  
3 protected right. (Dkt. 5 at 2.) The Court noted as well that the few facts set forth in the  
4 complaint were not sufficient to implicate federal constitutional concerns. (*See id.*) Plaintiff was  
5 granted thirty days within which to file an amended complaint curing the specified deficiencies  
6 and was advised that his failure to do so would result in a recommendation that this action be  
7 dismissed. (*Id.*) To date, plaintiff has filed no amended complaint.

8 When a complaint is frivolous, malicious, fails to state a claim on which relief may be  
9 granted, or seeks monetary relief against a defendant who is immune from such relief, the Court  
10 may dismiss an *in forma pauperis* complaint before service of process under 28 U.S.C.


11 § 1915(e)(2)(B). Because plaintiff failed to adequately allege a cause of action under § 1983 in  
12 his original civil rights complaint, and because he elected not to file an amended complaint, this  
13 Court recommends that plaintiff’s complaint and this action be dismissed, without prejudice,  
14 pursuant to § 1915(e)(2)(B). A proposed order accompanies this Report and Recommendation.

15 Objections to this Report and Recommendation, if any, should be filed with the Clerk and  
16 served upon all parties to this suit within **twenty-one (21) days** of the date on which this Report  
17 and Recommendation is signed. Failure to file objections within the specified time may affect  
18 the right to appeal. Objections should be noted for consideration on the District Judge’s motions  
19 calendar for the third Friday after they are filed. Responses to objections may be filed within  
20 **fourteen (14) days** after service of objections. If no timely objections are filed, the matter will  
21 be ready for consideration by the District Judge on **September 9, 2016**.

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1 DATED this 18<sup>th</sup> day of August, 2016.

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4 Mary Alice Theiler  
United States Magistrate Judge